

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:) Date: December 8, 2009
Easwaran Nambudiri) Attorney Docket No.: F-678
Serial No.: 10/695,539) Customer No.: 00919
Filed: October 28, 2003) Group Art Unit: 2129
Confirmation No.: 6441) Examiner: K. Bharadwaj
Title: METHOD AND SYSTEM FOR IMPROVING SECURITY OF POSTAGE INDICIA UTILIZING RESOLUTION AND PIXEL SIZE	

REQUEST FOR REFUND

Mail Stop 16
Director of the USPTO
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant hereby requests a refund of \$1,110.00 improperly charged to Deposit Account 16-1885 on May 4, 2009, for patent application 10/695,539 for a 3 month extension of time (Fee Code 1253, see attached Fee Worksheet (Document Code WFEE obtained from the PAIR system). This fee was improper since, as explained below, no extension of time was necessary and therefore no fee was required.

On October 30, 2008, a Final Rejection, that set a 3-month shortened statutory period for reply, was issued in the above-identified patent application. An Amendment after Final was filed with the USPTO on December 5, 2008, which is within 2 months from the date of mailing of the Final Rejection. (See the attached Transaction History obtained from the PAIR system). As of April 29, 2009, Applicant had yet to receive an Advisory Action from the USPTO (in fact, no advisory action was ever mailed). On April 29, 2009, Applicant filed a Notice of Appeal and a Pre-Appeal Brief Request for Review. On May 5, 2009, Applicant's Deposit Account, 16-1885, was debited by the USPTO in the amount of \$540.00 for the Notice of Appeal Fee (Fee Code 1401) and

additionally in the amount of \$1,110.00 for a three month extension of time (Fee Code 1253). A copy of the deposit account statement for deposit account 16-1885 for the month of May, 2009, showing these charges is attached. This charge of \$1,110.00 for an extension of time was incorrect.

As stated in the MPEP, Section 714.13, Amendments and Other Replies after Final Rejection or Action, Procedure Followed:

If an applicant initially replies within 2 months from the date of mailing of any final rejection setting a 3-month shortened statutory period for reply and the Office does not mail an advisory action until after the end of the 3-month shortened statutory period, the period for reply for purposes of determining the amount of any extension fee will be the date on which the Office mails the advisory action advising applicant of the status of the application, but in no event can the period extend beyond 6 months from the date of the final rejection.

Applicant initially replied within 2 months from the date of mailing of the final rejection that set a 3-month shortened statutory period for reply (reply date of December 5, 2008, mailing date of Office Action of October 30, 2008). The Office had not yet mailed an advisory action as of April 29, 2009, which is after the end of the 3-month shortened statutory period, i.e., January 30, 2009. Accordingly, the period for reply for purposes of determining the amount of any extension fee will be the date on which the Office mails the advisory action but in no event can the period extend beyond 6 months from the date of the final rejection. Since the Office had not yet mailed an advisory action as of April 29, 2009, the period for reply for purposes of determining the amount of any extension fee had not yet started, and the notice of appeal was timely filed without the need for any extensions of time. This information was provided on the first page of the Notice of Appeal, but apparently overlooked by the USPTO.

Since no extension of time fees were required, as detailed above, the Office improperly charged the fee of \$1,110.00 to deposit account 16-1885. Applicant respectfully requests that this fee be refunded.

The Commissioner is hereby authorized to credit deposit account 16-1885 in the amount of \$1,110.00 to refund the incorrectly charged fee.

Respectfully submitted,

/Brian A. Lemm/
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Enclosures: Fee Worksheet (Doc Code WFEE obtained from PAIR system) – 1 page
Transaction History obtained from PAIR system – 1 page
Copy of deposit account statement for deposit account 16-1885 - 3 pages